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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

09 MAY 19 AM 10:17

**UNITED STATES OF AMERICA,**

Plaintiff,

V.

**Lazaro MONTALBO-Nazario,**

Defendant

Magistrate Docket No.

COMPLAINT FOR VIOLATION OF:

# Title 8, U.S.C., Section 1326 Deported Alien Found in the United States

The undersigned complainant, being duly sworn, states:

On or about **May 18, 2008** within the Southern District of California, defendant, **Lazaro MONTALBO-Nazario**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT  
James Trombley  
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **19th DAY OF May 2008.**

Anthony J. Battaglia  
UNITED STATES MAGISTRATE JUDGE

**CONTINUATION OF COMPLAINT:**

**Lazaro MONTALBO-Nazario**

**PROBABLE CAUSE STATEMENT**

On May 18, 2008, at approximately 4:10 am Border Patrol Agents I. Frutos and J. Rhodes responded to a report from an Infrared Scope operator of a group of seven suspected illegal aliens walking north across State Rout 94 near Tecate, California. This area is approximately eight miles east of the Tecate Port of Entry, Tecate, California and six miles north of the United States/Mexico International Border.

With the assistance of the infrared scope operator, the Agents were able to locate the group. They identified themselves as United States Border Patrol Agents and conducted an immigration inspection. All seven subjects, including one later identified as the defendant **Lazaro MONTALBO-Nazario**, admitted to being citizens and nationals of Mexico present in the United States without proper immigration documents that would allow them to enter or remain in the United States legally. The seven illegal aliens were then arrested and transported to the Brown Field Border Patrol Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to Mexico on **May 11, 2006** through **Calexico, California**. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his Miranda rights. The defendant stated that he understood his rights and was willing to answer questions without an attorney present. The defendant admitted that he is a citizen and national of Mexico illegally present in the United States. The defendant further admitted that he had been previously deported from the United States and has not applied or requested permission to re-enter the United States legally. He stated his intended destination was Los Angeles, California.